

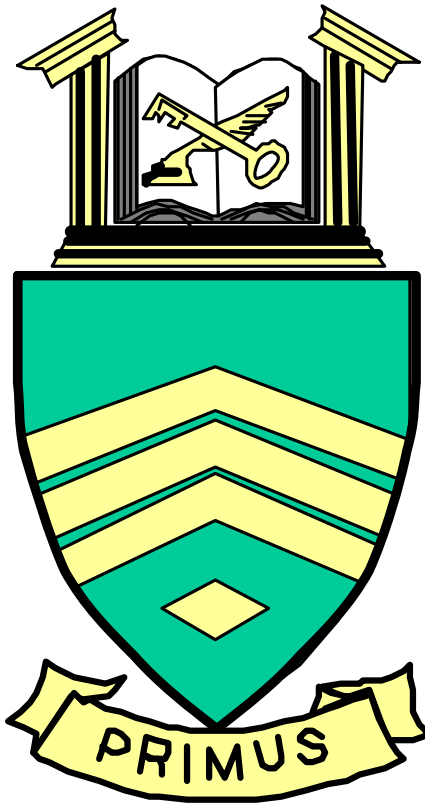
U.S. ARMY SERGEANTS MAJOR ACADEMY (FSC-TATS)

L675R (052002)

MAY 02

USAREC Staff Judge Advocate Briefing

TRAINING SUPPORT PACKAGE



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TRAINING SUPPORT PACKAGE

**TSP Number/
Hours
and Title** L675R
2 Hours
USAREC Staff Judge Advocate Briefing

Effective Date May 02

**Supersedes
TSPs** New Lesson (USAREC)

TSP User The following course uses this TSP:

Course Number(s)	Course Title(s)
400-FSC (F) 521-SQIM (F)	First Sergeant Course-The Army Training System (TATS)

Proponent The proponent for this TSP is the U.S. Army Recruiting and Retention Command (USAREC)

**Comments and
Recommendations** Send comments and recommendations on DA Form 2028 (Recommended Changes to Publications and Blank Forms) directly to:

ATTN ATSS DCf COMDT USASMA BLDG 11291 BIGGS FLD FORT BLISS TX 79918-8002	COMDT Recruiting and Retention School ATTN: Training and Development Dept BLDG 10000 Hampton Parkway (SSI) FORT JACKSON, SC 29207
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**Foreign
Disclosure
Restrictions** The Lesson Developer in coordination with the USAREC foreign disclosure authority has reviewed this lesson. This lesson is releasable to foreign military students from all requesting foreign countries without restrictions.

PREFACE

Purpose

This training support package provides the instructor with a standardized lesson plan for teaching the tasks(s) listed in Section I.

**This TSP
Contains**

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Lesson	Section I, Administrative Data	3
	Section II, Introduction/Terminal Learning Objective	7
	TLO: Describe the purpose of the UCMJ actions and prohibited recruiting acts to avoid within USAREC.	8
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Appendixes	A. Visual Masters	A-1
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	C. Practical Exercise(s) and Solution(s)s	Not Used
	D. Student Handout(s)	D-1

USAREC STAFF JUDGE ADVOCATE BRIEFING

SECTION I ADMINISTRATIVE DATA

Teaching to Standard

The following course teaches this TSP to standard:

Course Number	Course Title
400-FSC (F) 521-SQIM (F)	First Sergeant Course-The Army Training System (TATS)

Task(s) Trained to Standard

This lesson trains to standard the tasks listed in the following table. None.

Task(s) Taught or Supported

This lesson teaches or supports the following tasks:

Task Number	Task Title
805B-79R-5549	Advise on Legal and Administration Actions

Task(s) Reinforced

This lesson reinforces the task listed in the following table: None.

Academic Hours

This lesson requires the following academic hours:

	Peacetime Hours/ Methods	Mobilization Hours/ Methods
	2.0 / GS	/
Test	/	/
Test Review	/	/
Total Hours:	2.0	0 /

Test Lesson Number

The lesson listed below will test the students on the material in this lesson:
None.

Prerequisite Lessons

None.

Clearance and Access

There is no clearance or access requirement for this lesson.

References

The following table lists the references for this lesson:

Number	Title	Date	Additional Information
Handout 2	USAREC LEGAL ISSUES	N/A	SJA Handout
Handout 3	Forms/GTA	N/A	SJA Handout

Student Assignments

Before class--

- Read the student handouts (1 through 3).

During class--

- Attend the guest speaker presentation and participate in the question and answer period.

After Class--

- Turn in all recoverable materials.
-

Instructor Requirements

This is a guest speaker lesson.

Before class--

- The USAREC Staff Judge Advocate:
 - The Staff Judge Advocate or his designated alternate will be the guest speaker for this lesson.
 - Provide one copy of the TSP to the guest speaker at least 15 working days prior to the presentation.
 - Instructor:
 - Issue all recoverable materials NLT three days prior to presentation.
 - Guest speaker:
 - Review all lecture material.
 - Notify 3rd Battalion (NCOA) 218th Regiment, Student and Faculty of equipment requirements at least 10 working days prior to lecture.
-

Instructor Requirements, continued

During class--

- Guest speaker: Cover all learning objectives.

After class--

- Instructor: Collect all recoverable materials.
 - Guest Speaker: Report any lesson discrepancies to the Chief Instructor, First Sergeant Course.
-

Additional Personnel Requirements

- Introducer for guest speaker.
 - Audio Supervisor (Classroom).
 - Projection Equipment Operator (Classroom).
-

Equipment Required for Instruction

- As determined by the guest speaker.
-

Materials Required

Instructor Materials--

- As determined by the guest speaker.

Student Materials--

- Pen or pencil and writing paper.
 - Reading materials listed on the advance sheet, Appendix D.
-

Copyright Information

No copyrighted material reproduced for use in this lesson.

Classroom, Training Area and Range Requirements

General purpose classroom (20 students).

**Ammunition
Requirements**

None.

**Instructional
Guidance**

None.

**Gender
Disclaimer**

Unless this publication states otherwise, masculine nouns and pronouns do not refer exclusively to men.

**Lesson
Approval**

The following individuals have reviewed and approved this lesson for publication and incorporation into the Sergeants Major Course.

Name/Signature	Rank	Title	Date Signed
Copley, Donald D.	SFC	Training Developer/Quality Control	
Gill, James M.	MSG	Chief, Training Dev, RRS	
Mayo, John W.	SGM	Chief, FSC, USASMA	
Mays, Albert J.	SGM	Chief, CDD, USASMA	
Gill, David, M.	LTC	Commandant, USA RRS	

SHOW VGT-1, U.S. ARMY RECRUITING COMMAND

NOTE: Show VGT-1 during the setup time for the SJA guest speaker lesson.
Remove the VGT as soon as you start the lesson.

REMOVE VGT-1

SECTION II INTRODUCTION

Motivator

Method of instruction: GS/LE
Technique of delivery: SG
Instructor to student ratio is: 1: 18
Time of instruction: 00:00 to 00:05
Media used: At discretion of guest speaker

Mission Box with integrity is a familiar phrase to most of us. With the great emphasis placed on mission accomplishment and the self-induced stress that comes with the desire for success, the temptation to cut corners or commit unethical acts are present. Don't do it. You, as a recruiting first sergeant, need to understand how the UCMJ laws apply to the actions of your soldiers.

NOTE: An introducer will read the guest speaker's biography and introduce the guest speaker.

Terminal Learning Objective

NOTE: Inform the students of the following Terminal Learning Objective (TLO) requirements.

At the completion of this lesson, you will

Action:	Describe the purpose of the UCMJ actions and prohibited recruiting acts to avoid within USAREC.
Conditions:	As a first sergeant, in a classroom environment, given SJA handouts 1 and 2.
Standard:	Described the purpose of the UCMJ actions and prohibited recruiting acts to avoid within USAREC IAW SJA handouts 1 and 2.

Safety Requirements

None.

Risk Assessment Level

Low.

Environmental Considerations

None

Evaluation

None.

Instructional Lead-in

None.

SECTION III PRESENTATION

ELO 1 ENABLING LEARNING OBJECTIVE 1

NOTE: Inform the students of the enabling learning objective requirements.

Action:	Identify legal advice and application of UCMJ in a USAREC environment.
Conditions:	As a first sergeant in a classroom, given SJA handouts 1 and 2.
Standard:	Identified legal advice and application of UCMJ in a USAREC environment IAW SJA handouts 1 and 2.

LS/A 1, ELO 1 Method of instruction: GS/LE
 Technique of delivery: SG
 Instructor to student ratio is: 1: 18
 Media used: Discretion of guest speaker

NOTE: Schedule a break at the 50-minute mark, 00:50 to 01:00. After the break, continue the guest speaker lesson.

The introducer/speaker will entertain a question and answer period.

SECTION IV SUMMARY

**Review/
Summarize
Lesson** Method of instruction: GS
 Technique of delivery: GP
 Instructor to student ratio is: 1:18
 Time of instruction: 01:45 to 01:50
 Media used: None

NOTE: The guest speaker may summarize the lesson at his or her discretion.

**Check on
Learning** The question and answer period serves as the check on learning for this lesson.

**Transition to
Next Lesson**

None.

SECTION V STUDENT EVALUATION

**Testing
Requirements**

None:

**Feedback
Requirement**

The instructor will conduct an AAR after completion of the guest speaker's presentation in the group room.

Appendix A

Index of Visual Aid Masters

**This Appendix
Contains**

This appendix contains the masters (or facsimiles) of the visual aids listed in this table. Use VGT-1 during the setup time of the lesson.

Number	Title
VGT-1	U.S. ARMY RECRUITING COMMAND

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Appendix D

Index of Student Handouts

**This Appendix
Contains**

This Appendix contains the items listed in this table--

Title/Synopsis	Pages
SH-1, Advance Sheet	SH-1-1 and SH-1-2
SH-2, USAREC Legal Issues	SH-2-1 thru SH-2-14
SH-3, USAREC Forms and GTA	SH-3-1 thru SH-3-3

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STUDENT HANDOUT 1

Advance Sheet	USAREC Staff Judge Advocate Briefing
Lesson Hours	This lesson consists of a two-hour briefing from the USAREC Staff Judge Advocate.
Overview	<p>Mission Box with integrity is a familiar phrase to most of us. With the great emphasis placed on mission accomplishment and the self-induced stress that comes with the desire for success, the temptation to cut corners or commit unethical acts are present. Don't do it. You, as a recruiting first sergeant, need to understand how the UCMJ laws apply to the actions of your soldiers.</p>
Learning Objective	<p>Terminal Learning Objective (TLO).</p> <p>Action: Describe the purpose of the UCMJ actions and prohibited recruiting acts to avoid within USAREC.</p> <p>Conditions: As a first sergeant in a classroom, given SJA handouts.</p> <p>Standard: Described the purpose of the UCMJ actions and prohibited recruiting acts to avoid within USAREC IAW SJA handouts 1 and 2.</p> <p>ELO-1 Identify legal advice and application of UCMJ in a USAREC environment.</p>
Assignment	<p>The student assignments for this lesson are:</p> <ul style="list-style-type: none">• Read Student Handouts 1 and 2.• Participate in a question and answer period after the lecture.
Additional Subject Area Resources	None

Bring to Class

-
- Pen or pencil and writing paper.
 - All reference material received for this lesson .
-

STUDENT HANDOUT 2

**This student
Handout
Contains**

An information paper (14 pages) produced by the USAREC Office of the Staff Judge Advocate. It is currently under revision but SJA will email the changes to this office upon completion. In the meantime, the SJA will continue to use the enclosed information paper until the updated one is available.

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USAREC LEGAL ISSUES

Mr. James H. Weise

I. REFERENCES

- A. AR 27-10 (Military Justice)
- B. USAREC Reg 27-2 (Legal Services for USAREC)
- C. USAREC Reg 600-25 (Prohibited and Regulated Activities)
- D. USAREC Reg 601-45 (Recruiting Improprieties and Procedures)
- E. USAREC Reg 190-3 (Procedures in Drunk Driving Cases)
- F. USAREC Reg 56-1 (Management of Government-Owned Vehicles)
- G. AR 601-1 (Assignment of Enlisted Personnel to USAREC)
- H. AR 635-200 (Personnel Separations – Enlisted Personnel)
- I. AR 15-6 (Procedure for Investigating Officers and Boards of Officers)
- J. USAREC Pam 27-65 (Procedural Guide for the USAREC Investigating Officer)

II. DELIVERY OF LEGAL SERVICES IN USAREC

A. Office of the Staff Judge Advocate: Phone (502) 626-0547 or DSN 536-0547

- 1. Review recruiting impropriety investigations.
- 2. Support Army advertising contract.
- 3. Serve as Ethics Counselor (DODR 5500.7-R)
- 4. Manage administrative separation actions.
- 5. Review unqualified, ineffective, and unsuitable relief actions.
- 6. Provide general administrative law opinions.
 - a. Enlistment eligibility issues (AR 601-210), including Lautenberg issues.
 - b. Report of survey appeals.
 - c. Review staff actions.
- 7. Provide advice on military justice matters.

8. Track drunk driving incidents and process DWI reprimands.
9. Provide instruction at Recruiting and Retention School.
10. Provide backup support to include board actions to the brigade judge advocates.

B. Brigade Judge Advocates (BJAs)

1. Functions (USAREC Reg (UR) 27-2). All legal matters, to include:
 - a. Act as recorders on administrative separation actions.
 - b. Review recruiting impropriety investigations and other misconduct investigations.
 - c. Advise commanders concerning military justice.
 - d. Advise commanders concerning administrative law matters.
 - e. Serve as Brigade Ethics Counselors (DODR 5500.7-R).
 - f. Provide legal instruction.
2. Offices

<u>BDE</u>	<u>BJA</u>	<u>COMMERCIAL</u>	<u>DSN</u>
1st	CPT Kuhfahl	(310) 677-2788/2786/	923-7481 Ext 6046
2nd	CPT MCGlinchey	(404) 469-3257/3267	
3rd	CPT Follansbee	(502) 626-0606/0617	536-0606/0617
5th	CPT Chase	(210)221-0155	471-0155/0138
6th	CPT Green	(702) 639-2062.'2063/2064	

C. Supporting Installations

1. Legal assistance (UR 27-2. Table 5).
2. Claims (UR 27-2. Table 3).
3. Courts-martial.
4. Trial Defense Service.
5. Labor Counselor (civilian personnel) support.

III. INVESTIGATIONS AND COMMANDER'S INQUIRIES

A. Reports of Investigation (Recruiting Improprieties), UR 601-45: The term "Report of Investigation" is used in USAREC to denote an investigation involving a recruiting impropriety as defined in UR 60 1-45, para 2-2 and 2-3. Recruiting impropriety investigations are monitored by the Recruiting Improprieties Branch at HQ, USAREC and are separate from other misconduct investigations. Detailed investigators should be *experienced* (UR 601-45, para 3-4c).

B. Commander's Inquiries or Informal AR 15-6 Investigations: Commander's inquiries are similar to informal AR 15-6 investigations and are commonly used in USAREC to investigate other misconduct not involving recruiting improprieties. Typical commander's inquiries in USAREC include unauthorized relationships and other sexual misconduct cases (i.e. recruiter partying with or having sex with applicant), and misuse of government credit card, telephones, etc.

C. The Investigation Process: USAREC Pamphlet 27-65 contains detailed guidance for investigating officers to use in investigating recruiting improprieties, other recruiter misconduct under UR 600-25, or any other matter for which an internal investigation has been directed. It is not a lengthy document and should be studied carefully before each investigation, whether the investigating officer is experienced or not. Consistent use of this valuable reference should result in quality investigations and eliminate commonly-encountered problems such as the following:

1. Missing chronologies: The chronology frequently summarizes the key events and the essential factual basis of the matter under investigation better than any narrative description ever could. Constructing the chronology requires the author to establish which events are the key events, and to organize his or her thinking in the course of establishing the sequence. One key event sometimes missed is the precise complaint or event which led to the discovery of the allegations and the initiation of the investigation.

2. Inadequate analysis: Reports of investigation sometimes reach or state conclusions without an obvious analytical basis in the available documentary evidence. Investigators should remember that conclusions must be based on evidence "in the record," i.e., documentary evidence contained in the tabbed enclosures in the report. Investigators sometimes learn matters during interviews that are not reduced to writing, but later remembered during preparation of the report and included in the report in support of a conclusion or finding. In rare cases the analysis just doesn't make sense or assumes information not readily apparent to the reader. Consider the following rule of thumb: *Never write the report so you can be understood; instead, write so that you can never be misunderstood.*

3. Resolve conflicting testimony: Particularly in sexual misconduct cases, and not infrequently in recruiting impropriety cases, the crucial issue involves only two witnesses – the applicant and the recruiter – telling mutually inconsistent stories without abundant external corroborating evidence. The outcome is going to depend to an extent on the investigator's assessment of the credibility of the witnesses. This assessment can, and indeed should, include the investigator's observations of the demeanor of the witnesses, such as body language clues to truthfulness, and other visual information that will not otherwise be available to commanders and reviewers unless reduced to writing in some fashion. While such information may not always be enough to support a finding by a preponderance, it is nonetheless important and useful information that the investigator is uniquely situated to obtain.

4. Explain all investigatory steps taken. Occasionally, a report will fail to discuss an investigative avenue that seems to be suggested by other evidence, and which was in fact pursued without success. A negative result is often as useful and informative as a positive result, and a brief mention of the line of investigation and its results may forestall a request from a reviewer for this information, with the attendant delay.

5. Illegible, or marginally legible, handwritten statements: Good penmanship is an acquired art, regrettably not acquired by everyone, including investigating officers. Writing that is hard or impossible to decipher adds an unnecessary burden for commanders and reviewers, and increases the chances that important information will be overlooked.

D. BJA Support: Supporting BJAs can provide legal advice at all stages of the investigation, to the 10 and to the command. Their reviews can identify defects at an early stage and minimize the need for re-investigation. At the same time, the BJAs have not been tasked with management of the RI investigation program, so they should not be relied upon to oversee and manage open investigations.

E. Reporting: Commanders must report certain misconduct “without delay” to Security Branch, HQ USAREC. See UR 3 80-4. **THIS INCLUDES ALL ALLEGATIONS OF SEXUAL HARASSMENT AND SEXUAL MISCONDUCT, TO INCLUDE UNAUTHORIZED RELATIONSHIPS.**

IV. MILITARY JUSTICE

A. Jurisdiction (UR 27-2)

1. Court-martial convening authorities.

a. CG exercises general court-martial convening authority (GCMCA) for administrative purposes, but does not convene courts-martial.

b. The respective supporting installation under AR 5-9 exercises GCMCA for courts-martial.

c. Brigade commanders exercise special court-martial convening authority (SPCMCA).

d. Battalion commanders exercise summary court-martial convening authority (SCMCA).

e. 3d Brigade Commander is SPCMCA for HQ, USAREC and RSB (will change to Commander, Area Support Group).

f. Courts-martial action will not be initiated without prior coordination with SJA.

2. Service connection.

a. Soldier tried in civilian court ordinarily will not be tried by court-martial or punished under Article 15 for the same offense (AR 27-10, para 4-2).

b. Commanders will report felony-level offenses to the servicing Criminal Investigation Command office (see Table 2, UR 27-2 for list of offices).

B. Nonjudicial punishment (Article 15s)

1. Formal proceedings.

a. Charges should be coordinated with BJA.

b. AGR personnel are ineligible for subsequent tours of duty if Article 15 is filed in their performance fiche, AR 135-18, para 2-4e.

c. AGR personnel in grade E6 and above cannot be reduced under Article 15.

d. RA personnel in grade E7 and above cannot be reduced under Article 15.

e. A copy of the Article 15 and all documentation must be sent to the BJA.

f. Only one Article 15 can be filed in the R-fiche for NCOs.

2. Reservations of authority.

a. Only CG may impose Article 15 on officers, unless CG returns authority to subordinate commanders.

b. Only field grade commanders may impose Article 15 on senior NCOs (E8 and E9).

c. Only brigade commanders may impose Article 15 for violations of UR 600-25, para 2-1, 2-2, and 2-3 (sexual misconduct, fraternization, and sexual harassment).

d. Only field grade commanders may impose Article 15 for drug offenses, drunk driving offenses, and other violations of UR 600-25 not limited to brigade commanders.

V. WRITTEN REPRIMANDS AND ADMINISTRATIVE REDUCTIONS**A. Written reprimands**

1. Written reprimands must allow soldier an opportunity to rebut. Reprimand must state that it is imposed as an administrative measure and not under Article 15, UCMJ.
2. Reprimands can only be filed locally or in the OMPF. The MPRJ does not exist anymore.
3. Only a general officer may file a written reprimand in a soldier's OMPF. All OMPF filings are in the performance fiche.
4. Per AR 190-5, a general officer memorandum of reprimand (GOMOR) is required for all E-5s and above (and all E-4 corporals) involved in a drunk driving incident. In USAREC, the reprimand is issued by the deputy commanding general (DCG).

B. Administrative reductions

1. Mandatory reduction to E1 for civilian conviction and sentence to confinement in excess of one year.
2. Commanders have discretion in other civilian conviction cases.

VI. DRUNK DRIVING PROCEDURES IN USAREC (UR 190-3)

A. Report all drunk driving incidents on serious incident reports to USAREC Security Branch and to the USAREC SJA office.

B. Forward a completed USAREC Form 943, a copy of the police report (or other evidence) and a statement of duty performance to USAREC SJA office within 14 days. The SJA office will use the information to prepare a general officer reprimand for DCG signature.

C. Battalion commander should suspend all GOV driving privileges when:

1. Soldier is charged with drunk driving or driving under influence of drugs; or
2. Soldier has a blood alcohol level of .05 percent or in violation of state law whichever is lower, whether or not the soldier was charged; or
3. A soldier refuses to take a lawfully requested chemical test; or
4. The commander determines that the soldier drove while intoxicated, whether or not

any charges are filed or dismissed.

D. Impose the suspension of GOV driving privileges whether or not the soldier's civilian driver's license was suspended.

E. The suspension remains in effect until final disposition of the charges, return of any state driving privileges that were suspended or revoked, and the battalion commander determines that the soldier's driving presents no risk stemming from alcohol abuse.

F. Ensure coordination with the supporting ASAP office for their assessment of the soldier's referral to a local program.

VII. RECRUITER RELIEFS AND REASSIGNMENTS (AR 601-1, Chapter 5)

A. Procedure: Battalion commander initiates relief ("involuntary reassignment") by notifying the soldier in writing of the intent to relieve. After the soldier is given an opportunity to rebut, the case is forwarded to the brigade for action.

B. Brigade commander has the authority (subject to HQ, USAREC *review*) to approve the following relief actions:

1. Unqualified.
2. Ineffective.
3. Ineffective new.
4. Unsuitable reliefs except for recruiting improprieties.

C. Only CG, USAREC, may approve reliefs based on recruiting improprieties.

D. Commanders must properly support these actions with the documentary evidence required by the applicable provision of AR 601-1. Commanders must also ensure that the documentary evidence provided supports the basis cited for the relief.

VIII. RECRUITER ADMINISTRATIVE SEPARATION ACTIONS AR 635-200

A. Procedures

1. Normally, the recruiting battalion commander initiates administrative separation actions (unlike mainstream Army **where company level commander initiates action**).
2. CG USAREC is the separation authority for all Ch. 14-12c(2) drug cases and all actions which authorize issuance of an other than honorable (OTH) discharge.
3. Soldiers with six (6) or more years total service are entitled to a board hearing.
4. A soldier may submit a conditional waiver of the board (i.e. "I waive my board in return for an honorable discharge"). It is up to the separation authority (usually the CG) to approve the waiver or refer the case to a board. Chain of command makes recommendations.
5. Soldiers chaptered under chapters 5-8 (parenthood), 5-13 (personality order), 5-17 (other designated physical or mental condition), 11 (entry level), 13 (unsatisfactory performance), 14-1 2a and b (pattern of misconduct), and 18 (failure to meet body fat standards) must have at least one DA Form 4856 (General Counseling Form) with the "1-16" language prior to the final act involved in the separation. Sample counseling language is as follows:

If you continue your unsatisfactory conduct or performance, you may be separated from the Army under the provisions of AR 635-200 before the completion of your enlistment. Such separation can result in a characterization of service as Honorable, General (under honorable conditions), or under Other Than Honorable Conditions. If you receive a General or Under Other Than Honorable characterization of service, you may encounter substantial prejudice in civilian life and loss of veteran benefits. If you serve less than two years on active duty, you will receive no federal benefits based on being a veteran no matter what characterization of service you receive.

B. Chapter 14 (Misconduct)

1. 79R personnel relieved as unsuitable must be processed for separation under Ch. 14 prior to reclassification action being forwarded to DA.
2. Soldiers being separated for a "pattern of misconduct" need counseling IAW AR 635-200, para 1-16.

3. If an “other than honorable” discharge is warranted, CC is separation authority and board procedures must be used.

4. Separation processing is required for all first time drug offenders with 3 or more years of service IAW AR 635-200, Chapter 14, para 14-12c(2)(d).

IX. ADMINISTRATIVE LAW

A. Standards of Conduct Joint Ethics Regulation (JER) DOD Dir 5500.7-R

1. Use of Government Vehicles FOR OFFICIAL USE ONLY (UR 56-1).

- a. Domicile to Duty/Field Work discussed in UR 56-1, para 3-3. Do not do it without authorization!
- b. GOV cannot be used within 8 hours after consuming alcohol (UR 56-1, para 3-5).
- c. GOV operators liable for payment of parking and traffic tickets.
- d. Operators are not liable to third parties for civil damages resulting from traffic accidents occurring in the scope of duty. May be liable for damage to GOV under a report of survey for one month's base pay. **IMPORTANT: BATTALIONS MUST IMMEDIATELY REPORT ALL GOV ACCIDENTS TO THE NEAREST ARMY CLAIMS OFFICE.**
- e. Family members may not be passengers in GOVs unless issued invitational travel orders (UR 56-1, para 3-4).

2. Use of government property and personnel.

- a. Government property (*e.g.* telephones, supplies, equipment) may only be used for official business.
- b. Government charge/credit cards may only be used for official business expenses.

3. Gratuities.

- a. Membership in frequent flyer programs is voluntary but encouraged.
- b. Points accumulated through official travel may only be used in connection with official travel.
- c. Personnel cannot accept gratuities for doing their official duties.

4. Off-duty employment: Must be approved in advance.

5. No solicitations: Superiors cannot solicit subordinates, either at work or off duty. This is misuse of your official position. Example: Selling AM WAY products, selling long-distance calling cards, etc.

6. No unauthorized commitments. Only authorized contracting officials can bind the Army. Do not tell a vendor the Army will buy something without using proper procedures.

7. No use of appropriated funds to purchase gifts for visiting personnel.

B. Article 138 Complaints (AR 27-10, Chapter 20)

1. If a commander receives a request for redress, he or she should fax it to the BJA immediately and make coordination for reply. Response must be made within 15 days.

2. If a soldier is not satisfied with the response to the request for redress and submits an actual Article 138 complaint, it must be handled expeditiously.

C. Subpoenas

1. Soldiers who are requested to testify or receive a subpoena should immediately notify their chain of command. Chain of command must notify BJA.

2. If the testimony is related to a soldier's official duties (why was Sally disqualified, how much does an EI make, etc.), he/she must have written authorization from the USAREC SJA to testify.

3. Bottom line: Coordinate all subpoenas/witness requests through BJA.

D. Jury Duty

1. If a soldier is notified of selection to jury duty, he/she should notify chain of command.

2. If serving on jury duty would be a problem, the command should notify the WA to see if any state exemptions apply, or if an exemption applies under 10 USC 982 (*see* UR 27-2, Appendix E). Coordinate with BJA.

X. SEXUAL HARASSMENT/MISCONDUCT (AR 600-20 and UR 600-25)

A. Mandatory reporting requirement: ALL sexual harassment/misconduct allegations (to include consensual unauthorized relationships) MUST be reported by serious incident report to the Security Branch, HQ, USAREC, within 24 hours.

B. Felony level offenses will also be reported to the servicing CID office.

C. Battalion commanders will appoint investigations/commander's inquiries into each known or suspected violation. Coordinate with BJA.

D. Authority to impose Article 15 for violations of UR 600-25, para 2-1, 2-2, and 2-3 (Unauthorized relationships, fraternization, and sexual harassment) is limited to BRIGADE commanders.

E. Sexual harassment information card (USAREC FM 1128) will be issued to all enlistees at time of entry in DEP/DTP status.

F. Ethics card (USAREC FM 1130) will be distributed by each battalion to all members of the command. Every soldier and civilian recruiter is required to have this card in their possession at all times.

TOP TEN LEGAL LANDMINES FOR COMMANDERS

1. Reporting Requirements – (UR 380-4, Chapter 9) among other things, send SIR immediately upon alleged felony by recruiter; send SIR w/in 24 hours for:

- Any incident of child abuse, spouse abuse, or domestic altercation.
- Any incident of drug or alcohol abuse including positive urinalysis and DUI (see UR 190-3 for other requirements for dealing with DUI cases).
- Any incident of sexual misconduct or sexual harassment.
- Misdemeanor arrests of recruiting personnel

2. Investigations – must coordinate with report to CID all felony level incidents (call WA for advice); most common problems with investigations reviewed at brigade:

- Files lack required documents; all RI investigations must include 200 card and complete residual file.
- Leads not followed up on; investigating officer (10) should interview the applicant even if he/she has made a previous statement; 10 must follow up on documents and witnesses mentioned in statements.

3. Adverse Personnel Actions –

a. Suspension of Favorable Personnel Actions (Flags) – AR 600-8-2; AR 601-1; UR 601-45.

- General rule: soldier must be flagged when unfavorable action or investigation is started against the soldier by military or civilian authorities; remove the flag when charges are dropped or punishment is complete.
- Rule for RIs only:
 - Recruiters on a HQDA promotion list must be flagged; brigade commander may lift flag if case is unsubstantiated and applicant did not access; otherwise soldier remains flagged pending review at USAREC.
 - Recruiters not on HQDA promotion list – battalion commander has discretion to flag or not to flag based on the seriousness of the allegations and the likelihood the case will be substantiated: if substantiated and forwarded to USAREC, flag.
- A flag is submitted for each separate adverse action; do not consolidate.

b. No recruiting personnel should be allowed to remain at home while awaiting the disposition of any adverse action. While recruiters may be suspended from recruiting duties pending investigation or reassignment (AR. 601-1, para. 5-7, UR. 601-45, para. 3-6c), they should be reassigned within the unit and must continue to report for duty. Note: decisions regarding suspension should be given careful consideration; contact your BJA.

c. Involuntary Reassignments/Reliefs –AR 631-1, Chapter 5;

- The recruiter must be given written notification of intent to relieve.
- Notification must:
 - Cite the regulatory basis for the action (the specific provision of AR 601-1 supporting the action).
 - Clearly articulate facts or circumstances that support the cited basis for relief.
- The recruiter must be given an opportunity to respond.
- The Battalion Commander must specifically address any comments provided by the recruiter and review all matters presented prior to making a recommendation.
- If the Brigade Commander approves the relief, all documents, along with the service member's 2A, 2-1, and a DA Form 4187, will be forwarded to USAREC.

d. Processing Recruiting Improprieties

e. Report allegations to USAREC; RD-MID, and DJA; USAREC RID will assign case # and notify Brigade:

- Brigade will notify battalion to appoint an IC.
- If case is substantiated, give the soldier UR 713-1 and a copy of the investigation. Soldier must submit a rebuttal (or decline the opportunity in writing) within 10 days. Review, consider, and comment upon the rebuttal and make recommendation to brigade on back of UR 713-1.
- If case is unsubstantiated and applicant has accessed, forward case with recommendations thru BJA and Brigade Commander for final decision by USAREC; if applicant has not accessed, battalion commander may close case and forward investigation thru BJA and Brigade Commander for review at USAREC.
- Suspense to return completed investigation to USAREC is 50 days from date of allegation; battalion should strive to get investigation to brigade for review w/in 30 days; obviously not always possible.
- Note: although UP. 601-45 lists specific prohibitions, misconduct not specifically listed can still be a recruiting impropriety if it fits the definition of RI (acts or omissions in violation of law or regulation with the intent to enlist a person not qualified for enlistment or with the intent to grant a person a specific option, MOSC, educational benefit, bonus, or other enlistment benefit for which the applicant is ineligible or whom the recruiter does not believe is eligible).

5. Standard of Proof— the burden of proof you should apply depends on the type of action:

- Article 15 or Court-Martial: beyond a reasonable doubt
- Administrative actions (includes GO reprimands, reliefs, chapters): preponderance of the evidence = more likely/probable than not
- RI and Other Investigations: preponderance of the evidence more likely/probable than not.

6. Authority to give Article 15s —UR 27-2 limits authority to give Article 15s for certain categories of misconduct:

- Sexual Misconduct, Sexual Harassment & Fraternization: Brigade Commander
- Any Officer: Commander, USAREC
- E-8 or E-9: Field Grade (FG) Commander
- Violations of UR. 600-25 other than sexual misconduct harassment, and fraternization: FG Commander.
- Drug Offenses: FG Commander.
- Battalion or Brigade commander may further retain Article 15 authority, check policy memorandums.

7. Decision to Impose Article 15 --always call WA first to discuss charges and avoid turn-downs; AGR E-6 and above cannot be reduced; RA E-6 may be reduced one grade only; RA E-7 and above cannot be reduced; must fax copy of all completed Article 15s to WA for reporting to USAREC and DA (OTJAG).

8. Command-directed involuntary mental health evaluations — rules changed late last year; must now call psychiatrists first, give soldier written notice two days prior unless an emergency; DCDIG investigates improper referrals; call WA before making referral to ensure compliance.

9. Lautenberg Amendment-- cannot issue weapons to soldiers with convictions for domestic violence (includes violence against spouse, live-in girlfriend/boyfriend, children); it is felony for anyone with qualifying conviction to possess a weapon; impacts our applicants and those recruiters with privately owned weapons; call WA for guidance.

10. Unlawful Command Influence —

- *DO NOT*: discourage witnesses; issue punishment guidelines; make disparaging remarks about soldiers; discuss pending cases/investigations at meetings or in front of other soldiers.
- *ALWAYS*: when deciding appropriate level of disposition and punishment, consider and articulate CAV-U--the Crime (how serious?), the Accused (first offense or pattern of misconduct? good, average, or below average soldier), the Victim (what does the victim need in order to feel that justice was done?), and the-Unit (what message needs to be sent? What impact did the misconduct have on the unit?)

Coordinate early and often with your BJA.

Coordinate early and often with your BJA.

Coordinate early and often with your BJA.

STUDENT HANDOUT 3

**This student
Handout
Contains**

Three forms/GTAs used by the Staff Judge Advocate General during their briefing to the USAREC First Sergeant Course. The forms are:

- a. USAREC Form 1128, 1 Dec 96.
 - b. USAREC Form 1130, 1 Dec 1996.
 - c. GTA 19-6-6, June 1991.
-

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USAREC FORM 1128, 1 DEC 96 (Not to Scale)

ARMY SEXUAL HARASSMENT POLICY	
_____ Recruiting Battalion	
_____ Rctg Bn Cdr/XO Phone #	
<p>Upon entry into active duty or while in your unit of assignment, the processing of Sexual Harassment complaints through the chain of command is strongly encouraged. It will not serve as the only channel available to you. The following channels may be used:</p> <ol style="list-style-type: none"> (1) Higher echelon in the chain of command. (2) Equal opportunity advisor. (3) The Inspector General. (4) The Chaplain's office. (5) The Provost Marshal (Military Police)/ Criminal Investigation Command. (6) Medical agencies/facilities. (7) The Staff Judge Advocate. (8) Army-Hotline _____ 	
USAREC Fm 1128, 1 Dec 96	

FRONT

SEXUAL HARASSMENT POLICY
<p>1. The U.S. Army will not condone any person who violates the rights of; or discriminates against; any person because of their gender. Further, I understand that:</p> <p>a. Sexual harassment is a form of gender discrimination that involves unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, when:</p> <ol style="list-style-type: none"> (1) submission to or rejection of such conduct is made either explicitly or implicitly a term or condition of a person's job, pay, or career; (2) submission to or rejection of such conduct by a person is used as a basis for career or employment decisions affecting that person; or (3) such conduct interferes with an individual's performance or creates an intimidating, hostile, or offensive environment. <p>b. Any soldier or civilian employee:</p> <ol style="list-style-type: none"> (1) In a supervisory or command position who uses or condones implicit or explicit sexual behavior to control, influence, or affect the career, pay, or job

of another soldier or civilian employee in engaging in sexual harassment.

(2) Who makes deliberate or repeated unwelcome verbal comments, gestures, or physical contact of a sexual nature is engaging in sexual harassment.

c. Sexual harassment is not limited to the workplace, can occur at almost any place, and violates acceptable standards of integrity and impartiality required of all Army personnel. It interferes with mission accomplishment and unit cohesion. Such behavior by soldiers or Army civilians will not be tolerated.

2. I fully acknowledge that I have the duty and responsibility to report immediately any violation of the above stated policy.



3. The U.S. Army has zero tolerance for conduct or behavior that violates the policy stated above.

4. The Army policy stated above may be found in Army Regulation 600-20, Army Command Policy.

(For use of this form see USAREC Reg 350-6 and USAREC Reg 601-56)

BACK

USAREC FM 1130, 1 DEC 1996 (Not to Scale)

	United States Army Recruiting Ethical Standards (For use of this form see USAREC Reg 600-25)											
<ul style="list-style-type: none"> ● Avoid even the appearance of impropriety. ● Avoid conflict of interest. ● Don't use Government property for unofficial purposes. ● Pay your bills on time. ● Obtain written authorization before taking a second job. ● If permitted to moonlight, don't offer or sell anything, or provide service to any junior personnel. ● Contact your brigade judge advocate before accepting gifts from subordinates. ● Don't make or accept personal long distance telephone calls on your office phone. ● Don't drive after drinking. ● Keep alcohol out of recruiting stations and vehicles. ● Don't gamble in recruiting stations. ● Say NO to drugs. ● Avoid improper relations with prospects, applicants, DEP or DTP members. 												
<table border="0"> <tr> <td>● No sex.</td> <td>● No financial deals.</td> </tr> <tr> <td>● No dating.</td> <td>● No improper touching.</td> </tr> <tr> <td>● No "sleep overs."</td> <td>● No profane language.</td> </tr> <tr> <td>● No partying.</td> <td>● No verbal sexual suggestions.</td> </tr> <tr> <td>● No drinking.</td> <td>● NO SEXUAL HARASSMENT.</td> </tr> </table>			● No sex.	● No financial deals.	● No dating.	● No improper touching.	● No "sleep overs."	● No profane language.	● No partying.	● No verbal sexual suggestions.	● No drinking.	● NO SEXUAL HARASSMENT.
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● No partying.	● No verbal sexual suggestions.											
● No drinking.	● NO SEXUAL HARASSMENT.											
<ul style="list-style-type: none"> ● Make sure Government vehicle drivers possess a valid license. ● Report suspected violations to your chain of command or the USAREC Hotline (1-800-USAREC-1.). ● If you have any questions, contact your brigade judge advocate. 												
<p align="center">Conduct yourself as the Army's ambassador to the civilian community.</p>												
<p align="center">USAREC Fm 1130, 1 Dec 1996</p>												

FRONT

Integrity (in teg'ri tē), n. adherence to moral and ethical principles; soundness of moral character; honesty.

The surest road to Quality of Life is making Mission Box. When we are successful, we have the self-confidence and well-being necessary to enjoy our family and friends.

There will always be pressures to produce. You want to be successful by making Mission Box. But remember: Production and working smart include operating by the rules — the standard expected of us in terms of personal and professional conduct.

Our behavior, our standards set the tone for the entire Army in two ways. First, to much of the American public, we are the Army. Secondly, to the young men and women we recruit, our sense of integrity sets the example for them in subsequent Army service.

**If it ever becomes a choice between
box and integrity, make no mistake...
integrity is far more important!!**

BACK

GTA 19-6-6 (Not to Scale)

**HOW TO INFORM SUSPECT/ACCUSED
PERSONS OF THEIR RIGHTS**

Use this card only when DA Form 3881, Rights Warning Procedure/Waiver Certificate, cannot be used. Complete DA Form 3881 as soon as possible.

VERBAL RIGHTS WARNING

Inform the person of your official position, the nature of the offense(s), and the fact that he/she is a suspect/accused. Then read him/her the following--do not paraphrase; read verbatim:

"BEFORE I ASK YOU ANY QUESTIONS, YOU MUST UNDERSTAND YOUR RIGHTS."

1. **"YOU DO NOT HAVE TO ANSWER MY QUESTIONS OR SAY ANYTHING."**
2. **"ANYTHING YOU SAY OR DO CAN BE USED AS EVIDENCE AGAINST YOU IN A CRIMINAL TRIAL."**
3. (For personnel subject to the UCMJ) **"YOU HAVE THE RIGHT TO TALK PRIVATELY TO A LAWYER BEFORE, DURING, AND AFTER QUESTIONING AND TO HAVE A LAWYER PRESENT WITH YOU DURING QUESTIONING. THIS LAWYER CAN BE A CIVILIAN YOU ARRANGE FOR AT NO EXPENSE TO THE GOVERNMENT OR A MILITARY LAWYER DETAILED FOR YOU AT NO EXPENSE TO YOU, OR BOTH."**

(For civilians not subject to the UCMJ) **"YOU HAVE THE RIGHT TO TALK PRIVATELY TO A LAWYER BEFORE, DURING, AND AFTER QUESTIONING AND TO HAVE A LAWYER PRESENT WITH YOU DURING QUESTIONING. THIS LAWYER CAN BE ONE YOU ARRANGE FOR AT YOUR OWN EXPENSE, OR IF YOU CANNOT AFFORD A LAWYER AND WANT ONE, A LAWYER WILL BE APPOINTED FOR YOU BEFORE ANY QUESTIONING BEGINS."**
4. **"IF YOU ARE NOW WILLING TO DISCUSS THE OFFENSE(S) UNDER INVESTIGATION, WITH OR WITHOUT A LAWYER PRESENT, YOU HAVE A RIGHT TO STOP ANSWERING QUESTIONS AT ANY TIME, OR SPEAK PRIVATELY WITH A LAWYER BEFORE ANSWERING FURTHER, EVEN IF YOU SIGN A WAIVER CERTIFICATE."**

Make certain the suspect/accused fully understands his/her rights, then say:

"DO YOU WANT A LAWYER AT THIS TIME?"

"AT THIS TIME, ARE YOU WILLING TO DISCUSS THE OFFENSE(S) UNDER INVESTIGATION AND MAKE A STATEMENT WITHOUT TALKING TO A LAWYER AND WITHOUT HAVING A LAWYER PRESENT WITH YOU?"

*(See DA Form 3881 for more detailed instructions.)
Department of the Army Graphic Training Aid
Supersedes GTA 19-6-5, July 1985*

GTA 19-6-6, June 1991

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